

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

DIVISION OF CREDIT UNIONS

NEWSLETTER

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CREDIT UNION COMMISSION MEETS

The Credit Union Commission met July 22, 2004 in Jefferson City. Commission members in attendance were Pat Yokley, Bill Humpfer, Sharon Ichord, Cathy Stroud, Pat Macdonald, Lori Levine and John Hanneke. Others attending were Mike Wambolt and Linda Manlove-Braxton, Office of the Missouri Attorney General, Jack Pletz, attorney representing certain banks and the Missouri Bankers Association (MBA), Mike Noblett, MBA, Perry Withers, Mel Picker and Barbara Bellew, Lake City Credit Union, Peggy Nalls and Mike Winter, Missouri Credit Union Association; Jim Foley and Denise Szala, Department of Economic Development, Brian Mack, Office of Administration, Becky Kilpatrick, Zurett Merridith and John P. Smith, Division of Credit Unions.

The Commission approved the minutes of the April 13, 2004 meetings.

The Commission reviewed the field-of-membership expansion application submitted by **Lake City Credit Union**. More than 3,000 potential members exist within the group. The Commission found the group met the criteria for an exemption from the limitations on groups in 4 CSR 105-3.040.

The Commission supported by motion a budget decision item for submission to the 2005 General Assembly for funding of a hearing officer and making changes in credit union law RSMo 370 to provide authority for the Commission to utilize a hearing officer to hear field of membership appeals.

The Commission recommended to the Director that the Missouri Business Loan Rule 4 CSR 100-2.045 be rescinded.

Director Smith informed the Commission that the Secretary of State has adopted without any changes 15 CSR 30-51.175 Exclusion From Definition of Broker-Dealer. The rule will allow credit unions to enter into networking arrangements with security broker-dealers.

The Commission received several reports:

- Update on the appeals of Director's decision for field of membership expansions
- Update on field of membership applications in process
- Condition Report, Missouri chartered credit unions
- Revisions in the Missouri Sunshine Law and Administrative Procedures Act
- State and federal legislative update

The Commission met in closed session to receive legal advice.

The Commission's next regular meeting is scheduled for October 21, 2004 in Jefferson City. Commission meetings are open to the public but portions may be closed as provided by the Missouri Sunshine Law.

CONDITION OF MISSOURI CREDIT UNIONS COMPARISON REPORT

CAMEL CODE	July 1, 2003		July 1, 2004	
Code 1	7	4.4%	9	5.7%
Code 2	107	65.2%	106	66.6%
Code 3	46	28.0%	41	25.8%
Code 4	4	2.4%	3	1.9%
Code 5	0	-	0	-
** In 2003 five credit unions merged				
Credit unions merged in 2003:		Farmland Industries into CommunityAmerica Credit Union, Pacesetter into United Consumers Credit Union, Mid-County into County Credit Union, and St. Clair County Teachers into Vantage Credit Union		
Credit unions merged in 2004:		Omni federal Credit Union into Gateway Metro Credit Union		

LEGISLATIVE UPDATE

The 2004 session of the Missouri General Assembly enacted a number of provisions of interest to financial institutions. The provisions will take effect August 28, 2004. The complete text of the two bills can be viewed at <http://www.house.state.mo.us/jointsearch/>. The changes in the law will include:

House Bill 959 and Senate Bill 1233

Section 365.020(5) was amended to eliminate the \$7,500 limit to coverage under Chapter 365, the Motor Vehicle Time Sales Act. Rather, all motor vehicle time sales will be subject to the Act from and after the effective date of this change (August 28, 2004) and it should be noted that the notice of default and right to cure and all other provisions of Sections 408.551-408.562 will, likewise, apply to such time sales;

Section 365.080 of the Motor Vehicle Time Sales Act was amended to provide for the sale of service contracts and similar products on motor vehicle time sales contracts;

Section 408.032 was modified to increase the fee for expediting the issuance of a motor vehicle title from \$6 to \$15;

Section 408.140.1(4) was edited to eliminate an ambiguity regarding late charges wherein there appeared to be two minimum late charges available. It also enumerates expenses available upon repossession;

A new **Section 408.178** provides for a deferral fee on "non-precomputed loans";

Section 408.190 was amended to clarify the scope of Sections 408.120-408-190 and Section 408.232 was similarly amended to explain the scope of the Second Deed of Trust Act;

A new **Section 408.480** directs that changes to certain sections of the Consumer Loan Act are remedial in nature and are to be construed accordingly;

A new **Section 432.047** provides for a statute of fraud requirement on business loans, similar to that for consumer loans;

Section 443.130 will now allow a satisfied creditor more time to provide a deed of release (i.e. 45 days rather than 15 business days) and to change the penalty for violations (i.e. from 10 percent of the original principal, to the lesser of \$300 per day after the 45th day up to a maximum of the original principal);

A new Section 427.225 creates a special cause of action regarding the deceptive use of a financial institution's name (e.g. stating or implying that an uninvolved financial institution is a participant in an advertised program).

FIELD OF MEMBERSHIP UP DATE

Springfield Telephone Employees Credit Union (now **Telcomm Credit Union**) submitted an application to include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court.

On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division of the court was granted and the case was referred to Judge Byron Kinder,

Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs were due June 3, 2002 with the respondent's briefs due July 3, 2002. A hearing by the Western Appellate Court was held on October 3, 2002 in Kansas City. On January 14, 2003, the Appellate Court upheld the decision of Cole County Circuit Court. On January 14, 2003, the MBA and CBO filed motions for a rehearing and transfer to the Missouri Supreme Court. The Appellate Court on March 4, 2003 denied the motions. On April 23, 2003, the Missouri Supreme Court issued an order transferring the case to their jurisdiction. On December 9, 2003 the Court reversed the decision of the lower courts and remanded the case. The opinion can be read at

<http://www.osca.state.mo.us/Courts/PubOpinions.nsf/0f87ea4ac0ad4c0186256405005d3b8e/d1c9a3590b16be4286256df6006dbc43?OpenDocument>. A status hearing has been scheduled for August 23, 2004 in Cole County Circuit Court.

South Community Credit Union submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the MBA and two local banks located in each of the two applicants' field of membership expansion areas filed appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001, the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17, 2002 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401. A status hearing has been scheduled for August 23, 2004 in Cole County Circuit Court.

Vantage Credit Union (formerly **Educational Employees Credit Union**) submitted an application for those who live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit

Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of standing. On July 18, 2002 the MBA and the two banks filed a Petition in Mandamus in Cole County Circuit Court. On May 22, 2004 an amended petition was filed. A status hearing has been scheduled for August 23, 2004 in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 02CV324797.

City Utilities Credit Union submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On August 8, 2002 the Commission heard and denied the appeal for lack of standing. The decision was released on December 9, 2002. On January 2, 2003, MBA and the local bank filed a Petition in Mandamus in Cole County Circuit Court. A status hearing has been scheduled for August 23, 2004 in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 03CV323001.

First Community Credit Union submitted an application for individuals who reside or work in the counties of Lincoln, Warren, Franklin, Washington, St. Francois, Ste. Genevieve, Pike, Montgomery, Gasconade and Crawford in the state of Missouri and the City of St. Louis. The application was published in the August 1, 2002 Missouri Register. The Director approved the application and his decision was published in the September 16, 2002 Missouri Register. On September 26, 2002 the MBA and a local bank located within the field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and a local bank filed a petition for administrative review in Cole County Circuit Court. A status hearing has been scheduled for August 23, 2004 in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323859.

Alliance Credit Union submitted an application for those who work or reside in St. Charles County or St. Louis County. The application was published in the November 15, 2002 Missouri Register. The Director approved the application and his decision was published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Allegiant Bank filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19,

2004 the MBA and a local bank filed a petition for administrative review in Cole County Circuit Court. A status hearing has been scheduled for August 23, 2004 in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323857.

St. Louis Postal Credit Union submitted an application for those who live or work in the Zip Codes 63005, 63017, 63042, 63043, 63044, 63126, 63127 and St. Charles County. The application was published in the December 2, 2002 Missouri Register. The director approved the application and his decision was published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Midwest Bank Centre filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. A status hearing has been scheduled for August 23, 2004 in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323855.

United Community Credit Union, an Illinois chartered credit union, submitted an application for those who live or work in the Missouri counties of Lewis, Ralls and Marion. The application was published in the January 2, 2003 Missouri Register. The director approved the application and his decision was published in the February 18, 2003 Missouri Register. On March 4, 2003 the MBA and the Farmers and Merchants Bank and Trust Company filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. A status hearing has been scheduled for August 23, 2004 in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323858.

Aerospace Community Credit Union submitted an application for those who live or work in the remainder of St. Louis City, St. Louis County and St. Charles County that is not currently in the **Aerospace Community Credit Union's** field of membership and those who live or work in Lincoln County. The application was published in the May 1, 2003 Missouri Register. The director approved the application and his decision was published in the July 1, 2003 Missouri Register. On July 14, 2003 the MBA and the First National Bank of St. Louis filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. A status

hearing has been scheduled for August 23, 2004 in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323852.

Midwest United Credit Union submitted an application for all eligible businesses, government entities, individuals and the immediate family of all eligible individuals who live or work in Platte County, Missouri. The Director approved these applications and his decision was published in the April 1, 2004 Missouri Register. On April 14, 2004, MBA and Platte Valley State Bank filed an appeal of the Director's decision with the Credit Union Commission. The Commission will schedule the appeal for hearing.

Health Care Family Credit Union submitted an application for persons and families of persons who reside in or are employed in the 63143 Zip Code, a low-income area. The application was published in the April 15, 2004 Missouri Register. The Director approved the application and his decision and the findings of fact and conclusions of law were published in the June 1, 2004 Missouri Register. The decision is now final.

Clay County Teachers Credit Union submitted an application to include those who reside or work in Platte County, Missouri. On July 13, 2004, MBA and Platte Valley State Bank filed an appeal of the Director's decision with the Credit Union Commission. The Commission will schedule the appeal for hearing.

Century Credit Union submitted an application to include persons working or residing in Jefferson County, Missouri. The applications were published in the May 17, 2004 Missouri Register. The Director approved these applications and his decisions and the findings of fact and conclusions of law will be published in the July 1, 2004. On July 13, 2004, MBA and Midwest Bankcentre filed an appeal of the Director's decision with the Credit Union Commission. The Commission will schedule the appeal for hearing.

From the Director...

✓ **Interest rates:**

The Federal Reserve (the Fed) recently began raising rates from a historically very low level. Although some concerns remain about the economy and inflation, the consensus is rates will continue to rise at a "measured" pace. Credit unions must be aware of and remain responsive to changes in market rates. A good policy is to review rates on shares and loans at least as often as the Fed makes adjustments. Failure to do so leads to liquidity and profitability issues.

✓ **Call report information**

Each credit union should have received the June 30, 2004 call report packet. Due date to return the call report to the examiners was July 22, 2004. It is important to return the call report on a timely basis so examiners can meet their deadlines of reviewing and uploading the information. The Division utilizes this information to compile several reports to monitor safety and soundness.

Also, in each packet was an information update sheet. Please inform the Division of changes that the credit union experiences *throughout* the year such as address, phone, e-mail and fax numbers. The Division inputs this information in a database that is used for various mailings throughout the year to credit unions.

The next call report due will be the September 2004 Call Report cycle. Thank you for your cooperation.

✓ **Brochure**

The brochure "Is a Credit Union Right for Me?" designed for groups interested in forming a credit union or information on eligibility to join an existing credit union is available from the Division.

The financial examiner assigned to your credit union is an additional source of information and assistance. Please utilize the examiner to respond to your needs. Our office in Jefferson City can contact the examiners for you, just call us at 573-751-3419.



John P. Smith, Director

Let it never be forgotten that the credit union is above all else an association of people, not of dollars. *Alphonse Desjardins*